



January 12, 2016

SENATE BILL No. 42

DIGEST OF SB 42 (Updated January 11, 2016 10:18 am - DI ck)

Citations Affected: IC 12-13; IC 31-37.

Synopsis: Juvenile delinquency. Prohibits the detention in certain facilities of a child alleged to be a delinquent child. Prohibits the placement in certain facilities of a delinquent child unless the delinquent child: (1) violates probation; or (2) has three prior unrelated adjudications as a delinquent child for acts that would be crimes if committed by an adult, at least one of which would be a felony. Requires the department of correction division of youth services to submit an annual report to the general assembly.

Effective: Upon passage.

Buck

January 5, 2016, read first time and referred to Committee on Rules & Legislative Procedure.
January 11, 2016, amended; reassigned to Committee on Judiciary.

SB 42—LS 6170/DI 13



January 12, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 42

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-13-5-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. ~~Except as~~
3 ~~provided in IC 31-37-7-3~~, IC 12-13 through IC 12-19 does not
4 authorize a state or county official, agent, or representative, in carrying
5 out IC 12-13 through IC 12-19, to take charge of a child over the
6 objection of either parent of the child or of the person standing in loco
7 parentis to the child, except under a court order.

8 SECTION 2. IC 31-37-7-1, AS AMENDED BY P.L.146-2008,
9 SECTION 625, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE UPON PASSAGE]: Sec. 1. **Except as provided in**
11 **section 2 of this chapter**, a child alleged to be a delinquent child under
12 IC 31-37-2 ~~except as provided in section 3 of this chapter~~, may not be
13 held in:

14 (1) a secure facility; ~~or~~
15 (2) a shelter care facility, a forestry camp, or a training school that
16 houses persons charged with, imprisoned for, or incarcerated for
17 crimes;

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- (3) a juvenile detention facility;
- (4) a secure private facility;
- (5) foster home placement; or
- (6) a group home.

SECTION 3. IC 31-37-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A child alleged to be a delinquent child under IC 31-37-1 may be held in ~~either of the following:~~

- ~~(+)~~ a secure facility for not more than six (6) hours upon arrest for the limited purposes of:
 - ~~(A)~~ (1) identification;
 - ~~(B)~~ (2) processing;
 - ~~(C)~~ (3) interrogation; or
 - ~~(D)~~ transfer to a juvenile detention facility; or
 - ~~(E)~~ (4) release to parents.

If the child is detained in a secure facility, the child shall be restricted to an area of the facility in which the child has not more than haphazard or incidental sight or sound contact with persons charged with, imprisoned for, or incarcerated for crimes.

- ~~(2) A juvenile detention facility.~~

SECTION 4. IC 31-37-7-3 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 3: A child alleged to be a delinquent child because of an act under IC 31-37-2-2 may be held in a juvenile detention facility for:

- ~~(1) not more than twenty-four (24) hours before; and~~
- ~~(2) not more than twenty-four (24) hours immediately after; the initial court appearance; not including Saturdays, Sundays, and nonjudicial days.~~

SECTION 5. IC 31-37-19-1, AS AMENDED BY P.L.104-2015, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) **Except as provided in subsection (b) and** subject to section 6.5 of this chapter, if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

- (1) Order supervision of the child by the probation department.
- (2) Order the child to receive outpatient treatment:
 - (A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or
 - (B) from an individual practitioner.
- (3) Remove the child from the child's home and place the child in another home or a shelter care facility. ~~child caring institution; group home; or secure private facility.~~ Placement under this



subdivision includes authorization to control and discipline the child.

(4) Award wardship to a:

(A) person, other than the department; or

(B) shelter care facility.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

(b) A juvenile court may not place a child who is a delinquent child under IC 31-37-2 in:

(1) a child caring institution;

(2) a group home;

(3) a juvenile detention facility;

(4) a secure detention facility;

(5) a forestry camp; or

(6) a training school that houses persons charged with, imprisoned for, or incarcerated for crimes.

~~(b)~~ (c) If the child is removed from the child's home ~~and~~ or placed in a foster family home or another shelter care facility, the juvenile court shall:

~~(A)~~ (1) approve a permanency plan for the child;

~~(B)~~ (2) find whether or not reasonable efforts were made to prevent or eliminate the need for the removal;

~~(C)~~ (3) designate responsibility for the placement and care of the child with the probation department; and

~~(D)~~ (4) find whether it:

~~(i)~~ (A) serves the best interests of the child to be removed; and

~~(ii)~~ (B) would be contrary to the health and welfare of the child for the child to remain in the home.

~~(c)~~ (d) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home or awards wardship of the child to a:

(A) person other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;



the court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) (e) If the juvenile court orders supervision of the child by the probation department under subsection (a)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

(f) Before September 1 of each year, the department of correction division of youth services shall submit a report to the general assembly in an electronic format under IC 5-14-6 comparing the annual population effects and cost savings that result from the implementation of changes to subsections (a) and (b) made after January 1, 2016, to the population and cost in previous years.

SECTION 6. IC 31-37-19-3, AS AMENDED BY P.L.146-2008, SECTION 649, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A juvenile court may not place a child who is a delinquent child under IC 31-37-2 in a shelter care facility that is located outside the child's county of residence unless:

(1) placement of the child in a shelter care facility with adequate services located in the child's county of residence is unavailable; or

(2) the child's county of residence does not have an appropriate shelter care facility with adequate services.

(b) A juvenile court may not place a child in a home or facility that is not a secure detention facility and that is located outside Indiana. unless:

(1) the placement is recommended or approved by the director of the department or the director's designee; or

(2) the court makes written findings based on clear and convincing evidence that:

(A) the out-of-state placement is appropriate because there is not a comparable facility with adequate services located in Indiana; or

(B) the location of the home or facility is within a distance not more than fifty (50) miles from the county of residence of the child.

SECTION 7. IC 31-37-19-5, AS AMENDED BY P.L.147-2012, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by the probation department as a condition of probation under this subdivision. The juvenile court shall after a determination under IC 11-8-8-5 require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 11-8-8-5 if committed by an adult to register with the local law enforcement authority under IC 11-8-8.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community restitution or service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

(c) If the juvenile court orders supervision of the child by the probation department under subsection (b)(1), the child or the child's parent, guardian, or custodian is responsible for any costs resulting from the participation in a rehabilitative service or educational class provided by the probation department. Any costs collected for services or classes provided by the probation department shall be deposited in the county supplemental juvenile probation services fund.

(d) If the juvenile court orders supervision of the child by the probation department under subsection (b)(1) and the child is found by the court to be in violation of probation, the juvenile court may order the child be placed in a juvenile detention center for not more than thirty (30) days, in addition to any other treatment or rehabilitation.

(e) Before September 1 of each year, the department of



1 **correction division of youth services shall submit a report to the**
 2 **general assembly in an electronic format under IC 5-14-6**
 3 **comparing the annual population effects and cost savings that**
 4 **result from the implementation of subsection (d) to the population**
 5 **and cost in previous years.**

6 SECTION 8. IC 31-37-19-6, AS AMENDED BY P.L.146-2008,
 7 SECTION 651, IS AMENDED TO READ AS FOLLOWS
 8 [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies if a
 9 child is a delinquent child under IC 31-37-1.

10 (b) Except as provided in **subsection (d)** and section 10 of this
 11 chapter, and subject to section 6.5 of this chapter, the juvenile court
 12 may:

13 (1) enter any dispositional decree specified in section 5 of this
 14 chapter; and

15 (2) take any of the following actions:

16 (A) Award wardship to:

17 (i) the department of correction for housing in a correctional
 18 facility for children; or

19 (ii) a community based correctional facility for children.

20 Wardship under this subdivision does not include the right to
 21 consent to the child's adoption.

22 (B) If the child is less than seventeen (17) years of age, order
 23 confinement in a juvenile detention facility for not more than
 24 the lesser of:

25 (i) ninety (90) days; or

26 (ii) the maximum term of imprisonment that could have
 27 been imposed on the child if the child had been convicted as
 28 an adult offender for the act that the child committed under
 29 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

30 (C) If the child is at least seventeen (17) years of age, order
 31 confinement in a juvenile detention facility for not more than
 32 the lesser of:

33 (i) one hundred twenty (120) days; or

34 (ii) the maximum term of imprisonment that could have
 35 been imposed on the child if the child had been convicted as
 36 an adult offender for the act that the child committed under
 37 IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

38 (D) Remove the child from the child's home and place the
 39 child in another home or shelter care facility. Placement under
 40 this subdivision includes authorization to control and
 41 discipline the child.

42 (E) Award wardship to a:



(i) person, other than the department; or

(ii) shelter care facility.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

(c) If a dispositional decree under this section:

(1) orders or approves removal of a child from the child's home, or awards wardship of the child to a:

(A) person, other than the department; or

(B) shelter care facility; and

(2) is the first court order in the delinquent child proceeding that authorizes or approves removal of the child from the child's parent, guardian, or custodian;

the juvenile court shall include in the decree the appropriate findings and conclusions described in IC 31-37-6-6(f) and IC 31-37-6-6(g).

(d) If a child is adjudicated a delinquent child under IC 31-37-1 for an act that would be a misdemeanor if committed by an adult, the juvenile court may not take any action under subsection (b)(2) unless:

(1) the child has at least three (3) prior unrelated adjudications as a delinquent child for acts that would be crimes if committed by an adult; and

(2) at least one (1) of the three (3) prior unrelated adjudications was for an act that would be a felony if committed by an adult.

(e) Before September 1 of each year, the department of correction division of youth services shall submit a report to the general assembly in an electronic format under IC 5-14-6 comparing the annual population effects and cost savings that result from the implementation of subsection (d) to the population and cost in previous years.

SECTION 9. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 42, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Judiciary.

(Reference is to SB 42 as introduced.)

LONG, Chairperson

